

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

LAWRENCE EUGENE DELL,

Petitioner,

v.

Civil No. 00-CV-71853-DT

HONORABLE BERNARD A. FRIEDMAN

CHIEF UNITED STATES DISTRICT JUDGE

DENNIS STRAUB,

Respondent,

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**OPINION AND ORDER DENYING THE  
MOTIONS FOR RELIEF FROM JUDGMENT**

On February 28, 2002, this Court denied petitioner's application for habeas relief brought pursuant to 28 U.S.C. § 2254, in which he challenged his conviction for one count of attempted murder and one count of placing explosives with intent to destroy causing injury to a person. *See Dell v. Straub*, 194 F. Supp. 2d 629 (E.D. Mich. 2002).

On July 21, 2006, the United States Court of Appeals for the Sixth Circuit denied petitioner permission to file a second or successive petition for writ of habeas corpus, finding that petitioner's request failed to satisfy the requirements for filling a second or successive habeas petition under 28 U.S.C. § 2244(b). *In Re Dell*, U.S.C.A. No. 06-1009 (6<sup>th</sup> Cir. July 21, 2006).

Petitioner has now filed two motions for relief from judgment, in which he asks this Court to re-open the habeas petition on the same basis that he asked

the Sixth Circuit to grant him permission to file a second or successive habeas petition.

A district court lacks the authority to reinstate a habeas petitioner's second or successive petition for writ of habeas corpus after the Court of Appeals declines to grant petitioner leave to file such a petition. See *White v. Carter*, 27 Fed. Appx. 312, 313-14 (6<sup>th</sup> Cir. 2001). Therefore, this Court is without authority to grant petitioner relief from the Sixth Circuit's refusal to grant petitioner permission to file a successive habeas petition or to allow him to re-open his original habeas petition.

Because this Court lacks jurisdiction to hear petitioner's second or successive habeas petition in the absence of a certificate of authorization from the Sixth Circuit, a certificate of appealability will be denied. See *Vargas v. Sikes*, 42 F. Supp. 2d 1380, 1381-1382 (N.D. Ga. 1999).

Based upon the foregoing, the motions for relief from judgment are DENIED.

IT IS FURTHER ORDERED that a certificate of appealability will also be DENIED.

s/Bernard A. Friedman  
**HON. BERNARD A. FRIEDMAN**  
CHIEF UNITED STATES DISTRICT JUDGE

DATED: October 24, 2006